



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2021-0424; FRL-8721-01-OCSP]

### **Electronic Option for Submitting Foreign Purchaser Acknowledgement Statement of Unregistered Pesticides under the Federal Insecticide, Fungicide and Rodenticide Act; Notice of Availability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is announcing the availability of an electronic option for submitting the Foreign Purchaser Acknowledgement Statement (FPAS) for unregistered pesticides as required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As an alternative to the hardcopy approach, which is still available, EPA is also now accepting the required notifications electronically using EPA's electronic document submission system, the Central Data Exchange (CDX). Use of CDX to prepare and submit the required notifications to EPA will help streamline and reduce the administrative costs and burdens associated with submitting paper-based statements for both the submitters and the Agency.

**DATES:** An FPAS may be submitted electronically using CDX as of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0424, is available online at <http://www.regulations.gov> or in-person at the Office of Pesticide Program Docket (OPP Docket), Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

Please note that due to the public health concerns related to COVID-19, the EPA/DC and Reading Room is closed to visitors with limited exceptions. The staff continues to provide

remote customer service via email, phone, and webform. For the latest status information on the EPA/DC and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact: Zoe*

Emdur, Office of Program Support, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347 0529; email address: [emdur.zoe@epa.gov](mailto:emdur.zoe@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this action apply to me?*

You may be potentially affected by this action if you manufacture, process, import, or distribute in commerce chemical substances and mixtures. The following North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. Potentially affected entities may include, but are not limited to the following:

- Basic Chemical Manufacturing (NAICS 3251);
- Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments

Manufacturing (NAICS 3252);

- Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing (NAICS 3253);

and

- Other Chemical Product and Preparation Manufacturing (NAICS 3251).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *B. What action is the Agency taking?*

The Agency is announcing the availability of an electronic option for use by those who must submit an FPAS under FIFRA 17(a)(2). EPA is providing an electronic option as part of the broader Federal government efforts to move to modern, electronic methods of information

collection, which streamline processes and reduce overall burdens for all involved.

Currently, an FPAS can only be submitted to the Agency in hardcopy using regular mail, requiring the Agency to manually scan and process submissions. The modernization of the FPAS process will allow the option for users to prepare and submit their notifications to the Agency electronically using a web-based application. To file electronically, submitters must use the EPA provided application. To access the application, users must complete a one-time registration with EPA's CDX (<https://cdx.epa.gov/>). CDX is the Agency's portal for submitting information to EPA in a secure online manner. Electronic submissions of an FPAS will be done via the Pesticide Submission Portal ("PSP" or "Pesticide Portal") which is accessed through EPA's CDX. Registered CDX users will be able to select "FPAS Submission" for a dropdown menu and upload one or more attachments for their submission. When registering, a user will need to ensure they are registering for the PSP data flow which will provide them access to the FPAS reporting application. (Note: Users who have previously registered with CDX are able to add "PSP" to their current registration.) This reporting tool is compatible with Windows, Mac, Linux, and UNIX based computers, and uses "Extensible Markup Language" (XML) specifications for efficient data transmission across the Internet.

*C. What is the Agency's authority for taking this action?*

FIFRA section 17(a)(2) and 40 CFR 168.75 require that any person exporting unregistered pesticides must obtain and submit to EPA a statement, known as an FPAS, signed by the foreign purchaser prior to export, acknowledging that the purchaser understands that the pesticide is not registered for use in and cannot be sold in the United States. EPA transmits the FPAS notification to the government of the importing country via per-shipment notifications or annual summary reports.

The exporter is required to send a copy of the purchaser acknowledgment statement to EPA within 7 days of having shipped the pesticide, along with a signed statement that the shipment did not occur prior to receipt of the purchaser acknowledgment statement. In addition,

if the exporter chooses the annual reporting option, he or she must include a statement that the FPAS is for the first shipment of a pesticide to a particular purchaser in a specific country, and that the exporter will report this information annually. Where an exporter chooses to comply with the annual summary reporting option, a summary must be sent after the end of the calendar year which lists all shipments of a particular pesticide shipped to a particular foreign purchaser. It is not required for the statement to be submitted to EPA in time to enable EPA to notify the importing country prior to arrival of the pesticide.

When exporting pesticides that are not registered in the U.S., manufacturers must submit a FPAS to EPA either per shipment or on an annual basis. EPA will then use this information to notify the Designated National Authority of the importing country. The FPAS must include the following items:

The name, address, and EPA identification number (i.e., EPA company number or establishment number), if applicable, of the exporter.

- The name and address of the foreign purchaser.
- The identity of the product and the active ingredient(s), including:
  - The Chemical Abstract Services Registry (CAS) number for each active ingredient;
  - The chemical nomenclature for each active ingredient as used by the International Union of Pure and Applied Chemists (IUPAC); and
- Other chemical or common names that could help EPA better identify the product (i.e., EPA's chemical PC code).
- If known or reasonably ascertainable, the country or countries of the final destination of the export shipment (i.e., where the exported pesticide is intended to be used), if different from the country of the foreign purchaser's address.
- Signed and dated statement from the foreign purchaser acknowledging that the product is not registered for use in the United States and cannot be sold in the United States.

- The exporter must submit a signed certification affirming that the export did not occur until the statement signed by the foreign purchaser was obtained by the exporter.
- Any foreign purchaser signing a statement in their own language must have the appropriate English translation accompanying it when submitted to the EPA.

For electronic reporting, the Government Paperwork Elimination Act (GPEA) (44 U.S.C. 3504) requires Executive agencies to provide, when practicable, for the option of the electronic maintenance, submission, or disclosure of information as a substitute for paper; and the use and acceptance of electronic signatures.

#### *D. What are the anticipated benefits of CDX reporting and use of PSP?*

EPA encourages submitters of an FPAS to adopt the electronic option as the preferred submission method. Use of the electronic option reduces the paperwork burden for submitters by reducing the cost and time required to review, edit, and transmit data to the Agency in a hardcopy format, as well as the cost to mail that hardcopy to EPA and to retain required records related to that hardcopy submission. PSP, the web-based reporting tool, enables efficient data transmittal and reduces errors with built-in validation procedures. PSP also allows submitters to share a draft submission within their organization, and more easily save an electronic copy of that submission for the required records or future use. The resource and time requirements for EPA to review and process these export notifications will also be reduced, including increased efficiencies in communicating with submitters, as well as the storage and retrieval of submissions.

## **II. Electronic Reporting Procedures**

This unit provides an overview of CDX, PSP, and the FPAS web-based reporting tool. It also provides instructions for the electronic process for FPAS notifications. As a reminder, the requirements are set in the regulations implementing the statutory mandate in FIFRA that appear in 40 CFR 168.75.

#### *A. What is CDX?*

CDX is EPA's point of entry for environmental data submissions to the Agency. CDX also provides the capability for submitters to access their data using web services. CDX enables EPA to work with stakeholders, including governments, regulated industries, and the public to enable streamlined, electronic submission of data via the Internet. To report under the procedures discussed in this notice, submitters would register with CDX, select the PSP option, and access reporting of FPAS. More information about CDX is available online at: <http://www.epa.gov/cdx/>.

*B. What is PSP?*

PSP is a web-based reporting tool for the submission of forms, reports, and other documents including FPAS notifications, electronically to the Agency. The tool is available for use with Windows, Mac, Linux, and UNIX computer systems, using "Extensible Markup Language" (XML) specifications for efficient data transmission across the Internet. CISS provides user-friendly navigation, works with CDX to secure online communication, creates a completed Portable Document Format (PDF) for review prior to submission, and enables data, reports, and other information to be submitted easily as PDF attachments, or by other electronic standards, such as XML. As currently implemented, one or more representatives from each facility must establish an account with EPA's CDX to prepare, transmit, certify, and submit forms, reports, and other documents.

*C. How will the FPAS be submitted via the internet using CDX?*

Once registered with EPA's CDX, submitters of FPAS notifications will select the PSP Program and use "FPAS submission" to prepare a data file for submission.

1. *Registering with CDX.* To submit electronically to EPA via CDX, a user would register with CDX at: [http://cdx.epa.gov/epa\\_home.asp](http://cdx.epa.gov/epa_home.asp). CDX registration enables EPA to authenticate user identities and verify user authorizations.

To register in CDX, the CDX registrant (also referred to as "Electronic Signature Holder" or "Public/Private Key Holder") would agree to the Terms and Conditions, provide information about the user and organization, select a user-name and password, and follow the procedures

outlined in the guidance document for CDX available online at:

*[http://www.epa.gov/cdr/tools/CDX\\_Registration\\_Guide\\_v0\\_02.pdf](http://www.epa.gov/cdr/tools/CDX_Registration_Guide_v0_02.pdf).*

2. *Submission.* Those choosing to submit electronically will use PSP to prepare their submissions. Then the submitter will choose “FPAS submission” from the drop-down which guides users through a “hands-on” process of creating an electronic submission. Once a user completes the relevant data fields and attaches appropriate PDF files or other file types, such as XML files, the web-based tool validates the submission by performing a basic error check and makes sure all the required fields and attachments are provided and complete.

Further instructions on submitting information and instructions for uploading PDF attachments or other file types, such as XML will be available through FPAS reporting guidance available online at: *<https://www.epa.gov/pesticide-registration/electronic-submissions-pesticide-applications>*.

*D. Can CBI be submitted using PSP?*

Yes. PSP enables the user to submit CBI and substantiate that CBI claim in an electronic format. All information sent by the user via CDX is transmitted securely to protect CBI. PSP also guides the user through the process of submitting CBI by prompting the user to check a CBI checkbox if using a form or by submitting a scanned document containing CBI by bracketing, underlining, or otherwise marking the confidential information on the document prior to scanning. As with paper-based submissions, a sanitized copy of any document containing CBI would be included by the user in the electronic submission. The FPAS reporting guidance instructs users on how to submit CBI and substantiate CBI claims information using PSP.

*E. How will CBI be protected when submitting via CDX?*

The Agency ensures secure transmission of the data, reports, and other documents sent from the user through the Internet via the Transport Layer Security (TLS) 1.0 protocol. TLS 1.0 is a widely used approach for securing Internet transactions and is endorsed by the National Institute of Standards and Technology (NIST) as a means for protecting data sent over the

Internet. See NIST Special Publication 800-52, “*Guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations*,” available online at: <http://csrc.nist.gov/publications/nistpubs/800-52/SP800-52.pdf>.

In addition, PSP enables the submitter to electronically sign, encrypt, and transmit submissions, which the Agency subsequently provides back to the user as an unaltered copy of record. This assures the user that the Agency has received exactly what the user sent to the Agency. PSP encrypts using a module based on the 256-bit Advanced Encryption Standard (AES) adopted by NIST. Details about AES can be found on the NIST website at: <http://csrc.nist.gov/publications/fips/fips197/fips-197.pdf>. EPA may incorporate other encryption modules into future versions of PSP. Information submitted via CDX is processed within EPA by secure systems certified for compliance with Federal Information Processing Standards (FIPS) that are available online at: <http://www.nist.gov/itl/fips.cfm>.

### **III. Paperwork Reduction Act (PRA)**

According to the PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in title 40 of the CFR, after appearing in the *Federal Register*, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements associated with the electronic option for FPAS notifications under FIFRA section 17(a)(2) and 40 CFR 168.75 were approved by OMB pursuant to the PRA under OMB Control No. 2070-0027 (EPA ICR No. 0161.15) on August 6, 2021. The addition of an electronic option for submissions does not change the requirements or add new burden requiring additional OMB approval. The annual paperwork burden per FPAS notification is estimated to average 2,940 hours for hardcopy submissions and 1,803 hours for electronic submissions. This burden estimate includes the time needed to review instructions, search



existing data sources, gather and maintain the data needed, and complete, review, and submit the required export notification to EPA. For additional details, please see the Information Collection Request document that is available in the docket.

Send any comments about the accuracy of the burden estimate, and any suggested methods for further minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any FPAS notifications or related questions to this address.

**Authority:** 7 U.S.C 136 *et seq.*

Dated: August 12, 2021.

**Michal Freedhoff,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2021-17660 Filed: 8/17/2021 8:45 am; Publication Date: 8/18/2021]